

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

LOS PADRES FORESTWATCH,  
a non-profit organization,

Plaintiff,

v.

UNITED STATES FOREST SERVICE,  
PEGGY HERNANDEZ, in her official capacity  
as forest supervisor for the Los Padres National  
Forest,

Defendants.

Case No.: 10-CV-03653-LHK

ORDER SEEKING CLARIFICATION  
RE: PARTIES' SECOND JOINT  
STIPULATED REQUEST TO  
CONTINUE PRELIMINARY  
INJUNCTION HEARING

(re: docket #27)

On October 26, 2010, the parties filed a "Second Joint Stipulated Request to Continue Preliminary Injunction." *See* Dkt. #27. In this filing, the parties state that they "believe that they will able to achieve a global settlement once FWS [U.S. Fish and Wildlife Service] issues its decision regarding consultation on the Project." Apparently, on or around October 13, 2010, FWS informed the Defendants, who then in turn informed Plaintiff, that FWS would require 30 days (which "should be" on or around November 13, 2010) to respond to the parties' request for FWS consultation on the Project.

1           The Court appreciates the parties' good faith efforts at settlement. Before granting a second  
2 continuance request, however, the Court orders the parties to clarify why certain issues, which are  
3 apparently holding up a "global settlement," were not raised with the Court in a far more timely  
4 manner. First, the parties, or at least Defendants, were aware on or around October 13, 2010 that a  
5 FWS decision regarding consultation on the Project would take 30 days to issue. Yet, the parties  
6 only identified the pending FWS decision to the Court on October 26, 2010 -- just a week before  
7 the pending hearing on Plaintiffs' motion for preliminary injunction. The parties must explain this  
8 delay, and further explain why they failed to mention the need for a FWS decision sooner.

9           Second, just yesterday, on October 25, 2010, the parties filed a joint stipulation requesting a  
10 two-day extension of time to October 27, 2010 to file Defendants' responsive brief to Plaintiff's  
11 motion for preliminary injunction. *See* Dkt. #25. The Court expressed hesitation about granting  
12 this request with the pending hearing so near, but ultimately granted the joint stipulation based on  
13 the parties' representations that this *two-day* extension would allow the parties' time "to reach a  
14 global settlement on all issues in this matter." The parties must explain why they did not inform  
15 the Court of the need for a FWS decision in their October 25, 2010 joint stipulation, and why they  
16 represented that a two-day extension would allow time for "global settlement."

17           If the parties believe settlement is appropriate, their proper course is to submit a stipulation  
18 of dismissal with the Court, and not submit multiple (and untimely) requests for continuances. In  
19 any event, the parties must answer the questions identified above in a filing with the Court **by**  
20 **Wednesday, October 27, 2010**. The parties are expected to act in a more prompt and timely  
21 manner in all future interactions with the Court.

22 **IT IS SO ORDERED.**

23  
24 Dated: October 26, 2010

  
LUCY H. KOH  
United States District Judge